

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Kelley Analyst: Darrine Distefano Bill Number: AB 998
Related Bills: See Legislative History Telephone: 845-6458 Introduced Date: 02-23-2001
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Zero-Emission Neighborhood Electric Vehicle Credit

SUMMARY

This bill would allow a credit of 30% of the purchase price of a new zero-emission Neighborhood Electric Vehicle (NEV).

PURPOSE OF THE BILL

According to the author's staff, the intent of this bill is to provide a tax credit incentive for the purchase and registration of a zero-emission Neighborhood Electric Vehicle (NEV).

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. It would be operative for taxable years beginning on or after January 1, 2002, and before January 1, 2008.

POSITION

Pending.

Summary of Suggested Amendments

Amendment 1 would resolve the department's implementations considerations regarding the additional line on the return, as discussed below.

ANALYSIS

FEDERAL LAW

Federal law allows taxpayers to claim a credit of up to 10% of the cost of purchasing a qualified electric vehicle, up to a maximum credit of \$4,000 per vehicle. A qualified electric vehicle is defined as any motor vehicle powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electric current. Taxpayers must offset the federal adjusted basis for depreciation purposes in the electric car by the amount of credit claimed. This credit applies to vehicles placed in service after June 30, 1993, and before January 1, 2005.

Board Position:

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_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Alan Hunter for GHG

04/03/01

Federal law allows a deduction for part of the cost of any qualified clean-fuel vehicle or qualified clean-fuel vehicle refueling property in the taxable year in which the property is first placed in service by its original owner. For purposes of this deduction, a motor vehicle is defined as a self-propelled vehicle manufactured primarily for use on public streets, roads, and highways and having at least four wheels. The maximum deduction is limited based on the vehicle's gross weight and the type of vehicle. Electric vehicles are excluded. This deduction also applies to vehicles placed in service after June 30, 1993, and before January 1, 2005.

Taxpayers must reduce their federal adjusted basis for depreciation purposes in the clean-fuel vehicle by the amount of the deduction claimed.

Under federal law, the deduction for qualified clean-fuel vehicle refueling property cannot exceed certain aggregate amounts per location. The deduction is not allowed for property used primarily outside the United States or by certain tax-exempt entities or foreign persons or for costs of eligible personal or qualifying property deducted under IRC Section 179.

For vehicles first placed in service after December 31, 2001, both the federal electric vehicle credit and the federal clean-fuel vehicle and refueling deduction are phased out in the three ensuing years as follows: 25% reduction in the year 2002, 50% reduction in the year 2003, and 75% reduction in the year 2004.

Existing California Air Resources Board low-emission vehicle regulations require that, in the years 2001 through 2002, 5% of each major-volume automobile manufacturer's sales in California be zero-emission vehicles. In the year 2003 the percentage increases to 10%. In that same year, intermediate-volume manufacturers would be subject to the regulations. Major-volume manufacturers are defined as those whose average sales of light- and medium-duty vehicles from 1989 to 1993 are more than 35,000 vehicles per year. Intermediate-volume manufacturers are defined as those whose average sales are between 3,000 and 35,000 vehicles per year.

THIS BILL

This bill would allow a credit equal to 30% of the total price paid for a new zero-emission Neighborhood Electric Vehicle (NEV). The credit would be limited to \$6,000 per qualified person under the Personal Income Tax Law (PITL) or taxpayer under the Bank and Corporation Tax Law (B&CTL).

The qualified person or taxpayer can claim one third of the credit, up to a maximum of \$2,000 dollars, for each of the first three 12-month periods after the purchase of the zero-emission NEV. No amount can be taken after the third 12-month period following purchase of the vehicle.

This bill specifies that the purchase of the zero-emission NEV means the original retail purchase from the manufacturer or dealer. It does not include the resale of the vehicle.

This bill defines "qualified person" (under the Personal Income Tax Law) and "taxpayer" (under the Bank and Corporation Tax Law) as a person or corporation that meets all of the following criteria:

1. Purchases a zero-emission NEV on or after the operative date of this section and on or before December 31, 2005.
2. Claims the credit described on or before April 15, 2008.
3. Registers the zero-emission NEV with the Department of Motor Vehicles (DMV) for use in this state.

This bill defines "zero-emission neighborhood electric vehicle" or "zero-emission NEV" as a personal transportation vehicle that meets all of the following criteria:

1. Is a two, three, or four-wheeled vehicle.
2. Is powered by electricity.
3. Meets all applicable federal and state safety standards.
4. Is capable of traveling up to 25 miles per hour.
5. Is operated on surface streets, other than a state highway, that has a posted speed limit of 35 miles per hour or less.

The Franchise Tax Board (FTB) would be required to revise the tax return to include a space for the taxpayer to enter the vehicle license number of the zero-emission NEV.

This bill would allow any unused credit to be carried over until exhausted.

IMPLEMENTATION CONSIDERATIONS

This bill does not limit the number of years for the carryover period. The department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits are typically used within eight years of being earned.

This bill requires FTB to revise the tax form to include a space for the zero-emission NEV's license number. The addition of a new line on the personal income tax form may increase the form by an additional page creating storage and system constraints. As discussed with the author's staff, Amendment 1 will require the taxpayer, upon request by FTB, to provide a copy of receipt of purchase and a copy of the current DMV registration. This amendment would resolve this concern and allow the credit to be properly verified.

It appears from the definition that the author is trying to encourage the purchase of small electric vehicles only appropriate for use in town. However, this credit could be claimed on more substantial vehicles used on highways. The definition needs clarification if the author wishes to restrict the type of vehicle on which the credit can be claimed.

LEGISLATIVE HISTORY

AB 3322 (Kaloogian, 1995/1996), failed passage in the Assembly Revenue and Taxation Committee, proposed an ultra low-emission or zero-emission vehicle credit. SB 751 (Hayden, 1995/1996), failed passage in the Senate Appropriations Committee, proposed a similar ultra low-emission or zero-emission vehicle credit.

SB 1726 (Burton, 1999/2000), died in Senate Revenue and Taxation Committee, would have provided a credit to a lessee or purchaser of a new ZEV equal to either 50% of the total lease payments for a maximum of 36 months or 50% of the sales price for a maximum period of three years. The credit would have been limited to \$3,000 per vehicle annually.

PROGRAM BACKGROUND

Prior state law allowed a credit equal to 55% of the qualified costs paid or incurred for low-emission motor vehicles or low-emission conversion devices. ZEVs were included in vehicles eligible for the credit. The California Energy Commission was responsible for allocating an annual maximum aggregate amount of \$750,000 to all taxpayers. Qualified costs included:

- 1) the cost of retrofitting an existing motor vehicle to operate on low-emission fuel;
- 2) the differential cost between purchasing a new low-emission motor vehicle and a comparable vehicle that was not a low-emission vehicle (as certified by the State Air Resources Board); or
- 3) 15% of the purchase price of a qualified nonrecreational motor vehicle.

Any unused credit could be carried forward. The credit was required to be reduced by the amount of any federal credit claimed for the cost of retrofitting devices.

This credit was effective for taxable or income years beginning on or after January 1, 1991, and before January 1, 1996.

OTHER STATES' INFORMATION

Review of tax laws for Florida, Illinois, Massachusetts, Michigan, and Minnesota found no comparable tax credits or deductions.

New York allows a 50% credit for those costs of an electric vehicle that exceed the costs of a gasoline-powered vehicle that is similar in size and style. The vehicle must be powered primarily by an electric motor drawing current from batteries or other portable sources of electric current. All dedicated, plug-in only electric vehicles, as well as series hybrid-electric vehicles, qualify.

These states were reviewed because of the similarities between California income tax laws and their tax laws.

FISCAL IMPACT

Once the implementation concerns are resolved, this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would result in revenue losses as shown in the following table:

Revenue Impact of AB 998 For Taxable Years Beginning On or After January 1, 2002 Assumed Enactment After June 30, 2001 Fiscal Year (In Millions)			
2001-2	2002-3	2003-4	2004-5
Negligible Loss *	-\$1	-\$2	-\$6

* Negligible Loss = Less than \$250,000

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

The impact of this bill would depend upon the number of taxpayers purchasing new zero-emission NEVs, the purchase cost of the vehicle, the number of vehicles purchased, and the average credit applied against tax liabilities.

These estimates reflect applied credits in the respective years and are based on the following data and assumptions:

- Assumed that 25% of the projected sales for zero-emission vehicles, excluding vehicles sold or leased to government, would be zero-emission NEVs.
- The number of zero-emission vehicles projected to be sold is based on information from the California Air Resources Board (CARB) and a memorandum of agreement between the CARB and the major auto industries.
- Based on information from a study conducted by Southern California Edison, approximately 62% of zero-emission vehicles are leased or owned by government.
- The average applied credit is estimated to be approximately \$1,100 annually. This assumes that only limited use vehicles with an average cost of \$11,000 would qualify. It does not include more expensive vehicles qualified for use on highways.
- The 2001-2 fiscal year loss represents approximately 10% of the loss attributable to the 2002 taxable year. This adjustment assumes some taxpayers would revise estimate payments to allow for the credit and takes into consideration both fiscal and calendar year filers.

In summary, for the first full year of the credit, it is projected that approximately 500 zero-emission NEVs would qualify taxpayers for the credit. The average applied credit is estimated to be approximately \$1,100.

POLICY CONCERNS

This bill only allows the credit for purchases of zero-emission NEVs, but not for leases of such vehicles.

This bill does not preclude the original owner of the zero-emission NEV from continuing to claim the credit even if the NEV has been sold before expiration of the three-year period. Once the vehicle is sold, the original owner has been reimbursed some of their costs of purchase. The author may want to consider adding a recapture provision to the bill if the taxpayer sells the NEV before the end of a recapture period.

The bill allows the credit to be claimed in the taxable year in which the vehicle is purchased and some, or all, of the total purchase price is paid. This may be earlier than the taxable year in which the NEV is actually registered with DMV and placed in service (i.e., used) in California. Most credits involving the acquisition and subsequent use of an item of property allow the credit to be claimed in the taxable year in which the placed in service date (for depreciation purposes) occurs. It is possible that a taxpayer could purchase a vehicle in California, register it with DMV, and then simply move the vehicle to another state for use. While the taxpayer would have to pay the cost of registration to California, assuming that the taxpayer otherwise had sufficient California tax liability to utilize the credit, the amount of the credit (at 20% of cost, up to \$6,000) would likely be greater than the cost of registration in California. If the bill were to require that the NEV be placed in service in California, with an appropriate recapture provision to ensure continued operation in California, this potential problem would be avoided.

In addition, if the author adds a recapture provision to this bill, the credit would be easier to administer if the taxpayer is eligible for the credit when the NEV is "placed in service" in California.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 998
As Introduced February 23, 2001

AMENDMENT 1

On page 2, strikeout lines 22 through 25, inclusive and insert:

(c) The qualified person, upon request, shall provide to the Franchise Tax Board a copy of the receipt of purchase and a copy of the current Department of Motor Vehicle registration.

AMENDMENT 2

On page 3, strikeout lines 33 through 36, inclusive and insert:

(c) The taxpayer, upon request, shall provide to the Franchise Tax Board a copy of the receipt of purchase and a copy of the current Department of Motor Vehicle registration.